IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WP(C).No. 9817 of 2007(R)

PETITIONER:

SAMUEL.E., AGED 37 YEARS,
S/O.P.ESSAKKIMUTHU, THAVARANA HOUSE, LONETREE P.O
IDUKKI - 685 505, NOW RESIDING AT VATTALKKULAM
HOUSE, MECHERIKKADU, UPPUTHARA P.O.,IDUKKI-685 505
(SUB ENGINEER, ELECTRICAL SECTION, K.S.E.B
UPPUTHARA, IDUKKI DISTRICT).

BY ADV. SRI.C.S.MANU
SRI.ANOOP.V.NAIR
SRI.ANOOP JOSEPH
SRI.S.K.PREMRAJ
SRI.ABHILASH AKBAR

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD,
VYDUTHI BHAVAN, THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY.

2. CHIEF ENGINEER, H.R.M.VYDUTHI BHAVAN,
K.S.E.B, THIRUVANANTHAPURAM.

3. EXECUTIVE ENGINEER, ELECTRICAL DIVISION
K.S.E.B, PEERUMEDU, IDUKKI DISTRICT.

4. DEPUTY CHIEF ENGINEER, ELECTRICAL
CIRCLE, K.S.E.B., THODUPUZHA.

BY SHRI.K.S.ANIL, SC, KSE BOARD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

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WP(C).No.9817 OF 2007-R.

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Dated this the 30th day of March, 2007.

J U D G M E N T

The petitioner is borne on the cadre of Sub Engineer in the service of the respondent Board. He along with 92 Sub Engineers were promoted as per Ext.P1 order passed by the Chief Engineer (HRM) on 23-9-2006 to the post of Assistant Engineer (Electrical). Ext.P1 makes it clear that the promotions were temporary in nature. The promotions were purely provisional within the purview of Rule 31(a)(i) Part I of K.S. & S.S.R. Though almost all persons included in Ext.P1 have been posted as Asst. Engineer (Electrical) consequent on Ext.P1 order of promotion, the petitioner has not been relieved from the post of Sub Engineer and he has not been posted as Asst. Engineer. He has therefore approached this Court for a direction to the 2nd respondent to promote him to the post of Asst. Engineer (Electrical).

2. It appears that the reason for denying the petitioner posting as Asst. Engineer is the disciplinary proceedings pending against him. The learned Legal Liaison Officer for the respondents submits that two separate proceedings have been initiated against the petitioner. One of the proceedings has been finalised by finding the petitioner guilty and imposing on him a penalty of barring one increment with cumulative effect. As far as the second proceedings are concerned, it is only at the stage of show cause notice.

3. As the benefit sought to be enjoyed by the petitioner is provisional promotion to the post of Asst. Engineer, his right for such promotion will have to be examined in the light of the statutory provisions under Rule 31(a)(i) Part I of K.S. & S.S.R. In similar cases, this Court has taken the view that admitted seniors possessing the requisite qualification shall have to be promoted under Rule 31(a)(i) Part I of K.S. & S.S.R. The above decision of this Court was challenged by the respondent Board in Writ appeal. However, the Division Bench in its judgment in

W.A.No.2362 of 2005 has affirmed the Single Bench judgment. The question for consideration is no more res integra.

4. In the result, the petitioner succeeds. There shall be an order directing the 2nd respondent to give the petitioner the benefit of Ext.P1 promotion to the post Asst. Engineer (Electrical) as expeditiously as possible, in any event, within two weeks from the date of receipt of a copy of this judgment.

5. Needless to state that the temporary promotion granted to the petitioner as per Ext.P1 and the direction issued in this judgment in his favour will not stand in the way of the respondents considering the penalty proceedings against him in accordance with law for regular promotion under Rule 28(i)(b) of Part I of K.S. & S.S.R.

The Writ petition is disposed of as above.

K.K.DENESAN, JUDGE.

kvs/-